BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2013-55-C

In Re: South Carolina Telephone Coalition Petition to Modify Alternative Regulation Plans Filed Pursuant to S.C. Code Ann. § 58-9-576(B) to Take Into Account Recent Action by the Federal Communications Commission	)	**Reply of South Carolina Cable Television Association in Support of Its Motion To Require Reductions in Amounts Drawn from the USF**

The South Carolina Cable Television Association ("SCCTA") has filed a motion seeking an order from this Commission requiring reductions to the South Carolina Universal Service Fund ("USF"). The South Carolina Telephone Coalition ("SCTC") has filed a memorandum opposing the SCCTA motion. The SCCTA now files this memorandum in reply to the SCTC filing.

This proceeding was initiated by the filing of a petition by the SCTC asking to increase the maximum rate that its members can charge for basic local exchange residential services. All parties in this proceeding agreed to the request for an increase in the maximum rate and the Commission approved the increase in Order No. 2013-201.[1] Following the issuance of that order six members of the SCTC filed tariff revisions increasing their rates effective June 1, 2013. On June 14, 2013 the SCCTA filed its motion asking that the USF withdrawals for those six companies be reduced by the amount of additional revenues that will be generated from the rate increases.

[1] The SCCTA agreed with and supported the increase sought by the SCTC. However, in its petition to intervene the SCCTA asserted that the increase would require a decrease in the USF. That issue has now been presented in the SCCTA motion.

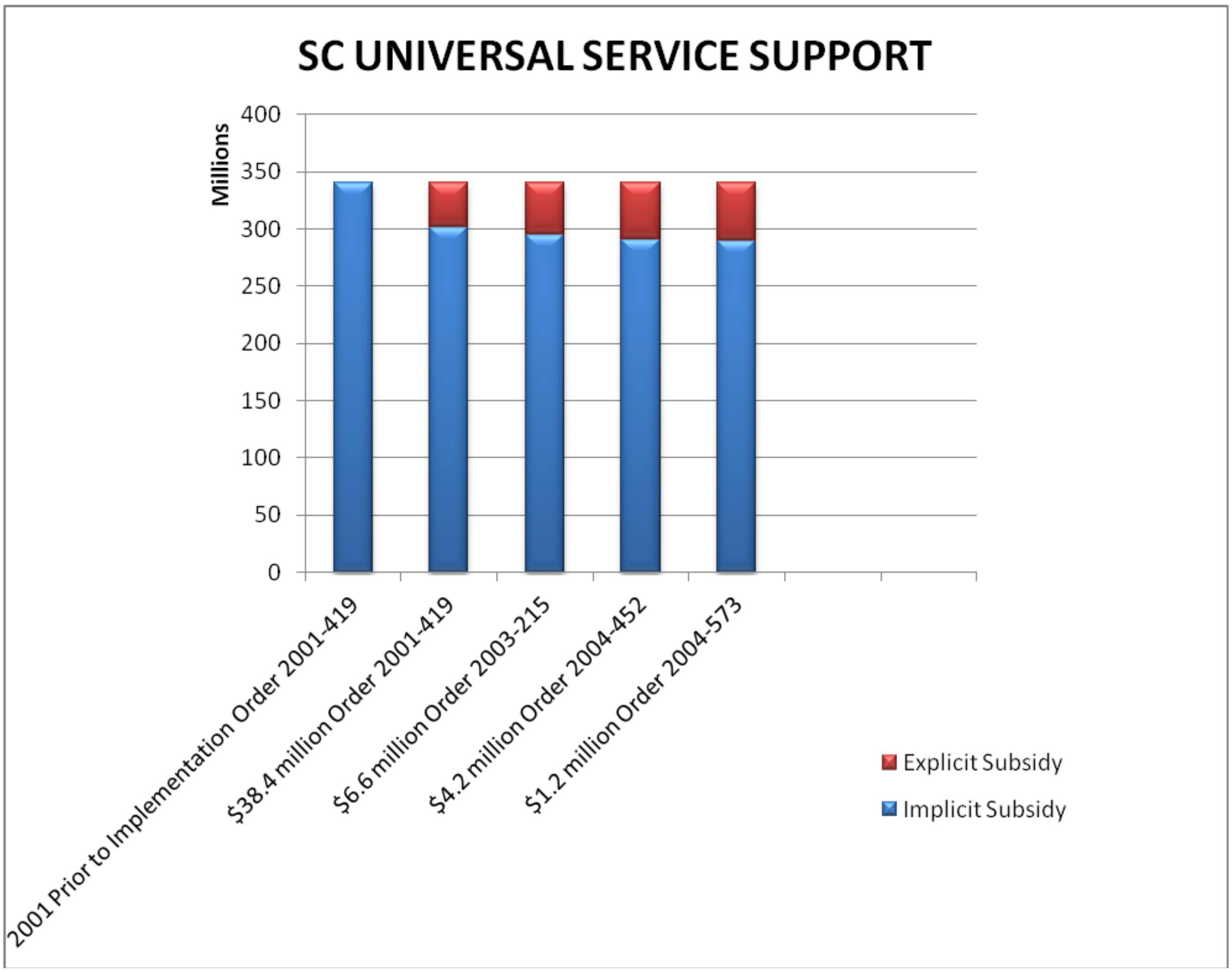
Statutory Language Governing the Size of the USF

The starting point for understanding the SC USF is S.C. Code Section 58-9-280(E) which creates and defines the USF. Subsection (5) of that provision defines the size of the USF for a carrier of last resort as "the difference between the cost of providing basic local service and the maximum amount it may charge for such services." When this Commission set the initial size of the USF at $340 million in Order No. 2001-419 in Docket No. 97-239-C, it approved calculations that were based on the maximum rates then in effect. The rate increase approved in this docket is the first increase in the maximum rates for basic local exchange services approved since the USF was approved at $340 million. The SCCTA position is a simple matter of mathematics: when rates are increased the difference between costs and rates will be smaller and the USF should be reduced.

The SCTC memorandum does not address this basic question of how the USF cannot be affected by an increase in the maximum rate. Obviously, if the maximum rate was increased enough to equal the cost of providing basic local service then there would literally not be any "difference" between the rate and the cost and there would not be any USF. It is just as obvious that an increase in the maximum rate must have an effect on the size of the USF.

The Phase-In Plan of Order No. 2001-419

The primary argument made by the SCTC is that the rate increase does not require any adjustment in the size of the USF because "SCTC companies in the aggregate draw less than 20% of the maximum amount of State USF for which they are eligible, even after these basic local residential service increases." SCTC memorandum, p. 4. This argument is a clever attempt at misdirection, focusing on the explicit subsidy received from the USF instead of the total subsidy received by the SCTC members. Under this Commission's Phase-In Plan, adopted in Order No. 2001-419, what matters for purposes of the USF is the total amount of subsidies, explicit and implicit, that the SCTC members receive. The relationship between the explicit and implicit subsidies is illustrated by the following bar chart which shows both types of subsidies over the first few years of the operation of the USF.



As shown in the chart, in 2001, before the USF was funded, the various carriers of last resort (including the members of the SCTC) were receiving a total of $340 million in implicit subsidies to support universal service. In Order No. 2001-419 the Commission approved the first phase of implementation of the USF by authorizing $38.4 million in explicit subsidies. Under the operation of the Phase-In Plan, in 2001, 2003 and 2004 increases in explicit funding through the USF were accompanied by rate reductions that reduced the implicit subsidies. However, even after four orders approving reductions in implicit subsidies in the total amount of $50.4 million the carriers of last resort were still receiving approximately $290 million in implicit subsidies.[2]

When both the explicit subsidies of the USF and the implicit subsidies from other rates are considered, the carriers of last resort – including all members of the SCTC – are receiving the maximum level of subsidy that was approved by this Commission. Accordingly, the SCTC argument that they are only receiving 20% of their authorized USF amount should be disregarded. The additional revenues the SCTC companies will receive from the recent rate increases should be offset by a reduction in the amount of USF subsidies they receive.

Reducing the USF Subsidy is in the Public Interest

The SCTC argues that reducing the USF would not be in the public interest because the South Carolina General Assembly has determined that maintaining access to basic local service as affordable rates is an important state goal. SCTC memorandum, p. 5. This contention of the SCTC is not consistent with the most recent action by the General Assembly on the subject. In Act 7 of 2009 the General Assembly created a

[2] The figure of $340 million found in Order No. 2001-419 was calculated by the South Carolina Telephone Association as the sum of the USF calculation (pursuant to Section 58-9-280(E)(5)) for all of the incumbent LECs. That number is smaller now because of the significant reduction in USF withdrawals by AT&T. However, under the theory of the Phase-In Plan all of the other carriers of last resort continue to receive a combination of explicit and implicit subsidies that equals the maximum amount for which they have been authorized by the Commission.

statutory process by which any carrier of last resort can be relieved of almost all of its obligations to continue to provide basic local services at regulated rates. See S.C. Code Section 58-9-576(C). Although AT&T (the largest ILEC in the state) is the only carrier of last resort to choose deregulation under that provision, it is available to any carrier of last resort in South Carolina and it reflects the determination by the General Assembly that it is no longer necessary that every person in the state have access to regulated, subsidized local telephone service.

It is also relevant to a consideration of the public interest to consider the findings of the Legislative Audit Council when it reviewed the USF in 2005.

> We reviewed the S.C. universal service fund (USF) administered by the Public Service Commission and found that it does not need to be continued in its present form and should be scaled down. The goals of universal telephone service have largely been met, and telephone companies also received support from the federal universal service fund. None of the eight other states in BellSouth's service area has a USF comparable to South Carolina's, and the telecommunications market is rapidly changing. It is not appropriate long-term policy to regulate and subsidize landline providers when an increasing part of the market (cellular and Internet-based providers) is not regulated or subsidized by the state. The state USF should be scaled back to include only supplements for low-income subscribers and support for those lines for which companies can provide evidence that costs are excessive.

<u>Legislative Audit Council Report on South Carolina Universal Service Fund</u> (February, 2005) p. 21.

As recognized by the Legislative Audit Council, it is not good policy for the state to provide subsidies in an increasingly competitive market. The South Carolina Supreme Court has also expressed concern about the dangers of subsidies impacting competitive markets. See <u>Porter v. South Carolina Public Service Commission</u>, 335 SC 157, 515

SE2d 923 (1999) (Commission's deregulation plan failed to properly insure that competitive services were not subsidized by non-competitive services).

Conclusion

The public interest is certainly not served by a system that allows companies to over-recover subsidies from the USF. Instead the public interest will be served if this Commission carefully oversees the USF to make sure that no improper subsidies are paid out. A good starting point is to require reductions in the USF to offset the revenues generated by the recent rate increases implemented by the six members of the SCTC.

Dated this 10th day of July, 2013.

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In Re:	)	
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South Carolina Telephone Coalition Petition	)	
to Modify Alternative Regulation Plans Filed	)	**CERTIFICATE OF SERVICE**
Pursuant to S.C. Code Ann. § 58-9-576(B) to	)	
Take Into Account Recent Action by the	)	
Federal Communications Commission	)	
	)	

This is to certify that I, Amy A. Kirby, a Paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the persons named below **Reply of South Carolina Cable Television Association in Support of Its Motion To Require Reductions in Amounts Drawn from the USF** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

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Dated at Columbia, South Carolina this 10th day of July, 2013.

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